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EXAMINER	
DEMICCO, MATTHEW R	
ART UNIT	PAPER NUMBER
2697	

DATE MAILED: 03/18/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/518,041

Applicant(s)

JERDING ET AL.

Examiner

Matthew R Demicco

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 March 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-48 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-48 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 March 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5,6,7.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## DETAILED ACTION

### *Specification*

1. The disclosure is objected to because of the following informalities: Figure 2, Element 34 is not described in the specification. Additionally, there is no description of Figure 4 in the specification. Appropriate correction is required.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-18 and 25-42 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,850,218 to LaJoie et al. as cited by the Applicant.

Regarding Claim 1, LaJoie discloses a programmable television services client device ("set-top terminal", Col. 9, Line 43) for enabling a user to navigate to an individual television service, the set-top box coupled to a programmable television services server device ("headend", Col. 9, Line 41). The set-top box has a memory for storing data (See Figure 3, "NVRAM, DRAM") and an interactive program guide contained in the memory for displaying program information received by the client device from the server (See Figure 20). LaJoie further discloses configuration information contained in the memory (Col. 13, Lines 39-44) that includes a plurality of initial guide arrangements and a selection indication that denotes one of the guide

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arrangements as the selected arrangement. In each guide mode in the system of LaJoie, there is a default theme (Cols. 26-27, Lines 64-2) that is used until the user selects another from the list with a selection indicator that denotes the particular selected arrangement (See Figure 20). Further, the system of LaJoie has a processor (See Figure 3, "CPU") configured to cause the client device to display the program information according to the selected guide arrangement, wherein the processor is responsive to the interactive program guide, the configuration information, and the user input.

Regarding Claim 2, LaJoie discloses a device as stated above in Claim 1 wherein the selected guide arrangement is configured in a time format including a centered and highlighted lowest channels of a plurality of channels in a channel portion of the guide arrangement and a listing by time of future programs in a main program display portion of the guide arrangement corresponding to the plurality of channels shown in the channel portion of the guide arrangement (See Figure 16). LaJoie demonstrates a guide arrangement configured in a time format (Figure 16, Element 386) where the lowest channel of a plurality of channels ("Channel 2") is highlighted and centered. The listing shows future programming as well as current programming.

Regarding Claim 3, LaJoie discloses a device as stated above in Claim 2 wherein the processor is further responsive to a subsequent user input to display a guide arrangement in a current time format (See Figure 21) including a highlighted program on the current viewing channel ("Channel 2") of a plurality of channels in the channel portion of the guide arrangement and a listing by time of current and future programs in

the main program display portion of the guide arrangement (Element 432) corresponding to the plurality of channels in the channel portion of the guide arrangement.

Regarding Claim 4, LaJoie discloses a device as stated above in Claim 2 wherein the processor is further responsive to a subsequent user input to display a subsequent guide arrangement in a user-configured time format including a highlighted program on a user pre-configured viewing channel of a plurality of channels in the channel portion of the guide arrangement and a listing by time of current and future programs in a main program display portion of the guide arrangement corresponding to the plurality of channels in the channel portion of the guide arrangement. This is accomplished by the user pressing the arrows on the remote control device and causing the guide to scroll up and down channels or back and forth across current and future programs in time-formatted guide arrangement (Col. 24, Lines 56-62).

Regarding Claim 5, LaJoie discloses a device as stated above in Claim 2 wherein the processor is responsive to a subsequent user input to display a guide arrangement with a menu of ordering formats selectable by a user overlaid on the channel portion of the guide arrangement (See Figures 20 and 22).

Regarding Claim 6, LaJoie discloses a device as stated above in Claim 1 wherein the selected guide arrangement is configured in a theme format displaying first alphabetical theme (See Figure 20) in a theme portion of the initial guide arrangement and a plurality of future programs in a main program display portion of the guide arrangement corresponding to the first alphabetical theme shown in the theme portion of the guide arrangement (See Figure 21).

Regarding Claim 7, LaJoie discloses a device as stated above in Claim 6 wherein the processor is further responsive to a subsequent user input (Col. 24, Lines 56-62) to display a subsequent guide arrangement in a current theme format including a highlighted (Col. 26, Lines 48-60) current viewing program for a current time slot centered in a main program display portion of the guide arrangement and a theme category corresponding to the current viewing program in a theme portion of the guide arrangement (See Figure 21).

Regarding Claim 8, LaJoie discloses a device as stated above in Claim 6 wherein the processor is responsive to a subsequent user input to display a new theme not corresponding to the current viewing program in the theme portion of the guide arrangement (Col. 26, Lines 48-64) and a plurality of future programs in the main program display portion of the guide arrangement corresponding to the new theme (Col. 27, Lines 8-32).

Regarding Claim 9, LaJoie discloses a device as stated above in Claim 6 wherein the processor is further responsive to a subsequent user input to display a subsequent guide arrangement in a user-configure theme format including a user pre-configured theme highlighted in a theme portion of the guide arrangement (Col. 27, Lines 8-32) and programs corresponding to the user pre-configured theme in the main program display portion of the guide arrangement (See Figure 21).

Regarding Claim 10, LaJoie discloses a device as stated above in Claim 6 wherein the processor is further responsive to a subsequent user input to display a subsequent guide arrangement with a menu of ordering formats selectable by a user overlaid on the theme portion of the guide arrangement (See Figure 21).

Regarding Claim 11, LaJoie discloses a device as stated above in Claim 1 wherein the selected guide arrangement is configured in a title format displaying a first alphabetical category in a title portion of the initial guide arrangement (See Figure 22) and an alphabetical listing by time of a plurality of programs in a main program display portion of the guide arrangement corresponding to the alphabetical category (See Figure 22).

Regarding Claim 12, LaJoie discloses a device as stated above in Claim 1 wherein the processor is further responsive to a subsequent user input to display a subsequent guide arrangement in a current title format (Col. 28, Lines 5-26) including a highlighted current viewing program (See Figure 23) for a current time slot centered in the main program display portion of the guide arrangement and a title category in the title portion of the subsequent guide arrangement corresponding to the current viewing program.

Regarding Claim 13, LaJoie discloses a device as stated above in Claim 1 wherein the processor is responsive to a subsequent user input to display a new title category not corresponding to the current viewing program in the title portion of the guide arrangement (Col. 28, Lines 16-39) and an alphabetical listing by time of a plurality of programs in the main program display portion of the guide arrangement corresponding to the new title category (See Figure 22).

Regarding Claim 14, LaJoie discloses a device as stated above in Claim 1 wherein the processor is further responsive to a subsequent user input to display a subsequent guide arrangement in a user-configure title format (Col. 28, Lines 16-38)

including a user pre-configured title highlighted in the theme portion of the guide arrangement (See Figure 22) and programs corresponding to the user pre-configured title in the main program display portions of the guide arrangement (See Figure 23).

Regarding Claim 15, LaJoie discloses a device as stated above in Claim 11 wherein the processor is further responsive to a subsequent user input to display a subsequent guide arrangement with a menu of ordering formats selectable by a user overlaid on the title portion of the guide arrangement (See Figure 22).

Regarding Claim 16, LaJoie discloses a device as stated above in Claim 1 wherein the selected guide arrangement is configured in a browse-by menu format including a menu of ordering formats selectable by a user (See Figure 16, Elements 360, 362, and 364).

Regarding Claim 17, LaJoie discloses a device as stated above in Claim 16 wherein a default menu format is a browse-by time format including a listing of future programs in a main program display of the initial guide arrangement. In the invention of LaJoie, pressing the guide key causes the EPG to enter the browse-by time mode (Col. 25, Lines 63-66 and Figure 18). This reads on the default menu format being a browse-by time format because the user has not specified whether to browse by time, theme or title.

Regarding Claim 18, LaJoie discloses a device as stated above in Claim 17 wherein the processor is further responsive to a subsequent user input (Col. 24, Lines 52-62) to display a guide arrangement in a current time format selectable from the browse-by menu, the current time format including a highlighted current viewing channel of a plurality of channels in the channel portion of the subsequent guide arrangement (See

Figure 16) and a listing by time of current and future programs in a main program display portion of the guide arrangement corresponding to the plurality of channels in the channel portion of the guide arrangement.

Regarding Claims 25-42, refer to Claims 1-18 as stated above.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 19-24 and 43-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over LaJoie et al. in view of U.S. Patent No. 5,808,608 to Young et al.

Regarding Claim 19, LaJoie discloses a device as stated above in Claim 16. What LaJoie does not disclose, however, is a device wherein the default menu format is a browse-by theme format including a listing of future programs in a main program display of the initial guide arrangement. Young discloses a electronic program guide as shown in Figure 3 with the ability to sort based on categories and themes as shown in Figure 14. Young further discloses that the default program guide mode may be based on the theme criteria active when the guide was last exited (Col. 24, Lines 6-13). This reads on a default browse-by theme menu format including a listing of future programs in a main program display of the initial guide arrangement. Young is evidence that ordinary workers in the art would appreciate the ability to set a default mode based on a last-used

mode of operation in an electronic program guide. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system of LaJoie with the default browse-by theme mode of Young in order to allow a user to return directly to a prior theme search.

Regarding Claim 20, LaJoie in view of Young disclose a system as stated above in Claim 19. LaJoie further discloses a system wherein the processor is further responsive to a subsequent user input (Col. 24, Lines 56-62) to display a subsequent guide arrangement in a current theme format selectable from the browse-by menu, the current theme format including a current viewing program for a current time slot highlighted (Col. 26, Lines 48-60) in a main program display portion of the guide arrangement and a theme category corresponding to the current viewing program in a theme portion of the guide arrangement (See Figure 21).

Regarding Claim 21, LaJoie in view of Young disclose a system as stated above in Claim 20. LaJoie further discloses a device wherein the processor is responsive to a subsequent user input to display a new theme not corresponding to the current viewing program in the theme portion of the guide arrangement (Col. 26, Lines 48-64) and a plurality of future programs in the main program display portion of the guide arrangement corresponding to the new theme (Col. 27, Lines 8-32).

Regarding Claim 22, LaJoie discloses a device as stated above in Claim 16. What LaJoie does not disclose, however, is a device wherein the default menu format is a browse-by title format including a listing of future programs in a main program display of the initial guide arrangement. Young discloses a electronic program guide as shown in

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Figure 3 with the ability to sort based on various user selections as shown in Figure 14.

Young further discloses that the default program guide mode may be based on the selection criteria active when the guide was last exited (Col. 24, Lines 6-13). Young is evidence that ordinary workers in the art would appreciate the ability to set a default mode based on a last-used mode of operation in an electronic program guide. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system of LaJoie with the default browse-by selection mode of Young in order to allow a user to return directly to a prior browse-by title listing.

Regarding Claim 23, LaJoie in view of Young disclose a system as stated above in Claim 22. LaJoie further discloses a system wherein the processor is further responsive to a subsequent user input to display a subsequent guide arrangement in a current title format (Col. 28, Lines 5-26) selectable from the browse-by menu including a highlighted current viewing program (See Figure 23) for a current time slot centered in the main program display portion of the guide arrangement and a title category in the title portion of the subsequent guide arrangement corresponding to the current viewing program.

Regarding Claim 24, LaJoie in view of Young discloses a device as stated above in Claim 22. LaJoie further discloses a device wherein the processor is responsive to a subsequent user input to display a new title category not corresponding to the current viewing program in the title portion of the guide arrangement (Col. 28, Lines 16-39) and an alphabetical listing by time of a plurality of programs in the main program display portion of the guide arrangement corresponding to the new title category (See Figure 22).

Regarding Claims 43-48, refer to Claims 19-24 as stated above.

*Conclusion*

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- a. U.S. Patent No. 6,005,565 to Legall et al. discloses an electronic program guide with category, subcategory and topic searching.
- b. U.S. Patent No. 6,268,849 to Boyer et al. discloses an electronic program guide with time, channel, and category searching.
- c. U.S. Patent No. 6,181,333 to Chaney et al. discloses an electronic program guide with various arrangement schemes including channel number and program names.
- d. U.S. Patent No. 6,367,078 to Lasky discloses an electronic program guide with sideways surfing inside of a given program category.
- e. U.S. Patent No. 6,008,803 to Rowe et al. discloses an electronic program guide with category and subcategory display.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew R Demicco whose telephone number is (703) 305-8155. The examiner can normally be reached on Mon-Fri, 9am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile can be reached on (703) 305-4380. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-5359 for regular communications and (703) 872-9314 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-0377.

mrdr  
March 6, 2003

*KA Williams*  
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Primary Examiner  
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